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11 Attorneys for Defendant NEW PLAN EXCEL
REALTY TRUST, INC.

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA (FRESNO)

15 FLAGSHIP WEST, LLC, a California
16 limited liability company, MARVIN G.
REICHE, and KATHLEEN REICHE,

17 Plaintiffs,

18 v.

19 EXCEL REALTY PARTNERS, L.P., a
20 Delaware limited partnership, NEW
PLAN EXCEL REALTY TRUST, INC.,
21 a Maryland corporation, THE MONEY
STORE COMMERCIAL MORTGAGE,
22 INC., a corporation, FIRST UNION
SMALL BUSINESS CAPITAL, a North
23 Carolina corporation, and DOES 1
through 50, inclusive,

24 Defendants.

Case No. 02-5200 OWW DLB

**STIPULATION AND ORDER RE
PENDING MOTIONS FOR ATTORNEYS'
FEES**

Judge: Honorable Oliver W. Wanger

Plaintiffs and Defendant NEW PLAN EXCEL REALTY TRUST INC., (“NEW PLAN”) having filed their respective Motions for Attorneys’ Fees in this matter, the Court having vacated hearing on the Motions for Attorneys’ Fees on its own motion on February 16, 2007, and pursuant to the court’s directions that briefing now be completed and a hearing date be set, the parties hereby stipulate through their respective counsels of record as follows:

1. The parties’ respective oppositions to the Motions for Attorneys’ Fees will be due on September 17, 2007. This includes any supplemental opposition that Plaintiffs may wish to submit, given that their initial opposition to Defendant’s NEW PLAN’S Motion was filed and served on February 16, 2007, before Plaintiffs received the court’s order continuing the hearing on the motions.

2. The parties’ reply briefs will be due on October 2, 2007.

3. The hearing on the parties’ Motions for Attorneys’ fees will be held on October 22, 2007 at 10:00 a.m. No Amended Notice of Motion will be required of either party.

Dated: September 5, 2007

Respectfully submitted,

TRAINOR FAIRBROOK

By: /s/ Arthur B. Mark III
ARTHUR B MARK III, Attorneys for
Plaintiffs FLAGSHIP WEST, LLC,
MARVIN G. REICHE and KATHLEEN
REICHE

Dated: September 5, 2007

Respectfully submitted,

SATZBERG, TRICHON, KROGAN &
WERTHEIMER, P.C.

By: /s/ Christopher N. Jones
CHRISTOPHER N. JONES, Attorneys for
Defendants NEW PLAN EXCEL
REALTY TRUST, INC.

ORDER

In accordance with the parties' Stipulation as set forth above, it is hereby ordered, the parties' oppositions to the respective Motions for Attorneys' Fees shall be due on September 17, 2007. This shall include any supplemental opposition Plaintiffs may wish to submit in response to NEW PLAN'S Motion for Attorneys' Fees. The parties' replies on the motions will be due on October 2, 2007.

The parties' Motion for Attorneys' Fees are set for hearing on October 22, 2007 at 10:00 a.m. No Amended Notices of Motions shall be required of either party.

Dated: September 6, 2007

/s/ OLIVER W. WANGER
UNITED STATES DISTRICT JUDGE

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